

§ 203.462

methods of termination set forth in this subpart.

[45 FR 31716, May 14, 1980]

§ 203.462 Pro rata payment of premium before termination.

No contract of insurance shall be terminated until the lender has paid to the Commissioner the pro rata portion of the current annual insurance premium.

§ 203.463 Notice and date of termination by Commissioner.

The Commissioner shall notify the lender that the contract of insurance has been terminated and the effective termination. The termination date shall be the last day of the month in which:

- (a) The loan was prepaid; or
- (b) A voluntary termination request is received by the Commissioner, or
- (c) The contract of insurance is otherwise terminated with the consent of the Commissioner.

§ 203.464 Effect of termination.

Upon termination of the contract of insurance, the obligation to pay any subsequent insurance premium shall cease and all rights of the borrower and lender shall be terminated.

§ 203.466 Definition of default.

If the borrower fails to make any payment, or to perform any other obligation under the loan and such failure continues for a period of 30 days, the loan shall be considered in default for the purposes of §§ 203.440 *et seq.*

§ 203.467 Date of default.

For the purposes of §§ 203.440 *et seq.* the date of default shall be considered as 30 days after—

- (a) The first uncorrected failure to perform any obligation under the loan, or
- (b) The first failure to make a monthly payment which subsequent payments by the borrower are insufficient to cover when applied to the overdue monthly payment in the order in which they became due.

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§ 203.468 Notice of default.

The lender shall, within 60 days after default as defined in §§ 203.440 *et seq.*, give written notice thereof to the Commissioner, unless such default has been cured or unless the Commissioner has been notified of a previous default which remains uncured.

§ 203.469 Reinstatement of defaulted loan.

If after default and prior to assignment by the lender of the loan to the Commissioner, the borrower shall pay to the lender all monthly payments in default, written notice shall be given to the Commissioner within 30 days and the insurance shall continue as if such default had not occurred.

§ 203.471 Special forbearance.

If the mortgagee finds that a default is due to circumstances beyond the mortgagor's control, as defined by the Secretary, the mortgagee may grant special forbearance relief to the mortgagor in accordance with the conditions prescribed by the Secretary.

[61 FR 35019, July 3, 1996]

§ 203.472 Relief for borrower in military service.

If the borrower is a person in military service, as defined in the Soldiers' and Sailors' Civil Relief Act of 1940, the lender may, by written agreement with the borrower, postpone for the period of military service, and 3 months thereafter, any part of the monthly payment, which represents amortization of principal. The agreement shall contain a provision for the resumption of monthly payments thereafter in amounts which will completely amortize the obligation within its original maturity. The agreement shall in no way affect the amount of the annual insurance premium which shall continue to be calculated in accordance with the original amortization provisions of the loan.

§ 203.473 Claim procedure.

- (a) A claim for insurance benefits on a loan secured by a first mortgage shall be made, and insurance benefits shall be paid, as provided in §§ 203.350 through 203.414.

(b) A claim for insurance benefits on a loan secured by other than a first mortgage shall be made, and insurance benefits shall be paid, as provided in §§ 203.474 through 203.478. However, the lender may not, except with the approval of the Commissioner, proceed against the security and also make claim under the contract of insurance, but shall elect which method it desires to pursue.

[49 FR 21319, May 21, 1984, as amended at 61 FR 35019, July 3, 1996]

§ 203.474 Maximum claim period.

A claim for insurance benefits on a loan secured by other than a first mortgage shall be filed within one year from the date of default, or within such additional period of time as may be approved by the Commissioner.

[49 FR 21319, May 21, 1984]

§ 203.476 Claim application and items to be filed.

The claim for reimbursement on a loan secured by other than a first mortgage shall be made upon an application form prescribed by the Commissioner. The application shall be accompanied by:

(a) The fiscal data pertaining to the loan transaction as required by the fiscal data form;

(b) Receipts covering all disbursements as required by the fiscal data form;

(c) The original note and the security held, assigned to the Commissioner without recourse of warranty, except that no act or omission of the lender shall have impaired the validity and priority of such security;

(d) Any hazard insurance policies held on property serving as security for the loan, together with a copy of the lender's notification to the carrier authorizing the amendment of the loss payable clause substituting the Commissioner as the holder of the security;

(e) The assignment to the Commissioner of all rights and interests arising under the loan, and all claims of the lender against the borrower or others arising out of the loan transaction;

(f) Any title evidence held by the lender;

(g) All property of the borrower held by the lender or to which it is entitled and, if payment is requested in debentures, all cash held by the lender or to which it is entitled, including deposits made for the account of the borrower and which have not been applied in reduction of the principal loan indebtedness;

(h) All records, ledger cards, documents, books, papers and accounts relating to the loan transaction;

(i) Any additional information or data which the Commissioner may require.

(Approved by the Office of Management and Budget under control number 2502-0051)

[36 FR 24508, Dec. 22, 1971, as amended at 49 FR 21319, May 21, 1984]

§ 203.477 Certificate by lender when loan assigned.

At the time of the assignment of the loan, the lender shall certify to the Commissioner that:

(a) The amount stated in the instrument of assignment is actually due and owing on the loan;

(b) There are no offsets of counterclaims thereto, and the financial institution has a good right to assign.

(c) The mortgage transaction did not involve a first mortgage and the mortgage is prior to all mechanics' and materialmen's liens filed of record, regardless of when such liens attach, and prior to all liens and encumbrances other than a first mortgage, or defects which may arise except such liens or other matters as may have been approved by the Commissioner.

[36 FR 34508, Dec. 22, 1971, as amended at 45 FR 33967, May 21, 1980; 49 FR 21320, May 21, 1984]

§ 203.478 Payment of insurance benefits.

(a) *Claim computation, items included.* Upon acceptable assignment of the note and security instruments, the Commissioner shall pay the lender an amount equal to the unpaid principal balance of the loan, plus:

(1) Any accrued interest due as of the date of execution of the assignment of the loan to the Commissioner.